

Approved: 3-13-95
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson David Corbin at 10:00 a.m. on March 13, 1995 in Room 423-S of the Capitol.

All members were present.

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:
Allie Devine, Secretary of Agriculture
Debra Duncan, Kansas Animal Health Department
George Teagarden, Kansas Animal Health Department, Livestock Commissioner.

Others attending: See attached list

A motion was made by Senator Sallee to approve the minutes of March 9 as corrected. Senator Clark seconded the motion. The motion carried.

HB 2384 - State Board of Agriculture selected by the Governor, 11 members, 2 from each Congressional District, 3 at large; Secretary selected by the Board. Information from Staff Comparison of Current Law with 1995 Bills passed by House and Senate Agriculture Committees was distributed (Attachment 1). Chairperson Corbin stated the March 9 meeting adjourned with a motion on the floor to report **HB 2384** favorable for passage. The motion was made by Senator Sallee and seconded by Senator Morris. Discussion followed on the motion. Responding to a question Secretary Devine said the Governor could support either the House or Senate version of the concept. The motion was voted on, and the motion failed.

A motion was made by Senator Steffes to amend **SB 61** into **HB 2384**, and a **Senate Substitute for House Bill 2384** be drafted and the bill be passed out favorably as amended. Senator Downey seconded the motion. The motion carried.

The hearing was opened on **SB 338 - Animal facility investigations; making inspections permissive if complaint filed.**

Debra Duncan testified in support of **SB 338** and explained why the bill had been introduced. She stated during their budget hearings with the Senate Ways and Means Subcommittee, they expressed concern about the cost of inspecting unfounded complaints. The subcommittee agreed with the agency and recommended introduction of this amendment to K.S.A. 47-1709(c) (Attachment 2).

George Teagarden responded to questions regarding the Brucellosis Program, and whether passage of this bill would influence that program.

Senator Wisdom moved **SB 338** be passed, and because it is none controversial in nature it be put on the Consent Calendar. Senator Clark seconded the motion. The motion carried.

The next meeting is scheduled for March 15, 1995.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3-13-95

NAME	REPRESENTING
Jim Allen	Seaboard
George Teagarden	KAFD
Debra Sue Duncan	KAFD
W K Rhodes	
Martin Haaver	Haaver's Capitol Report
Bert Caver	KMRC/SIENA
DONALD SNODGRASS	KS FOOD DEALERS ASSN.
Bill Fuller	Kansas Farm Bureau
Arlan Holmes	Division of Budget
Mike Beam	KS LIVSTK. ASSN.
Vern & Brenda Otte	KVMA
Jamie Clover Adams	KGFA
Mike Dawson	Ks. Dept. of Agriculture
Ray Butcher	Rep. 76 th Dist
Catherine A. Clever	Ks. Vet. Med. ASSN.
Mike Jensen	Ks Pork Council
Chris Wilson	KSIA
Joe Lieber	KS-Co-op Council
Marty Vanier	Ks Ag Alliance

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3-13-95

NAME	REPRESENTING
<i>BROOK YAKEL</i>	<i>Senator Morris</i>
<i>Doree Yakel</i>	

**COMPARISON OF CURRENT LAW WITH 1995 BILLS PASSED BY HOUSE AND SENATE AGRICULTURE COMMITTEES
TO RESTRUCTURE THE KANSAS STATE BOARD OF AGRICULTURE**

Senate Ag. Co.
3-13-95
Attachment 1 P-1

Issue	Under Current Structure	Under S.B. 61	Under S.B. 61 As Amended by Senate Agriculture Committee	Under H.B. 2384	Under H.B. 2384 As Amended by House Agriculture Committee	Under H.B. 2384 As Amended by House Committee of the Whole	
Secretary -- Manner of Selection	Secretary elected by Board.	Appointed by Governor with confirmation by the Senate. (Sec. 1)	Appointed by Governor with confirmation by the Senate. (Sec. 1)	Appointed by the Board of Agriculture for two-year term subject to Senate confirmation. (Sec. 8)	Appointed by the Board of Agriculture for two-year term subject to Senate confirmation. Confirmation would apply to "newly" appointed secretaries only. (Sec. 8)	Appointed by the Board of Agriculture for two-year term subject to Senate confirmation. Confirmation would occur after each appointment of the Secretary whether or not the Secretary was a new secretary. (Sec. 8)	
Qualifications of Secretary	None.	Demonstrate executive and administrative ability. (Sec. 1)	Demonstrate executive and administrative ability. (Sec. 1)	No specific qualifications.	Demonstrate executive and administrative ability. (Sec. 8)	Demonstrate executive and administrative ability. (Sec. 8)	
Board -- Manner of Selection	Elected by delegates of certain organizations authorized by law.	Nine-member Advisory Board appointed by the Governor. (Sec. 9)	Nine-member Advisory Board appointed by the Governor. One member would come from each Congressional district and the remainder at-large. No more than five from any political party. (Sec. 9)	Eleven members appointed by the Governor, subject to Senate confirmation. Two from each Congressional district and three at-large. No more than six from any political party. (Sec. 1 (b))	Eleven members appointed by the Governor, subject to Senate confirmation. Two from each Congressional district and three at-large. No more than six from any political party. (Sec. 1 (b))	Eleven members appointed by the Governor, subject to Senate confirmation. Two from each Congressional district and three at-large. No more than six from any political party. (Sec. 1 (b))	
Qualifications of Board	None.	None.	No two are to be residents of the same county at the time of appointment. Members of the Board have to be members of the two highest vote-receiving political parties at the last election of Secretary of State. (Sec. 9)	No two are to be residents of the same county at the time of appointment. Members of the Board have to be members of the two highest vote-receiving political parties at the last election of Secretary of State. (Sec. 1)	No two are to be residents of the same county at the time of appointment. Members of the Board do not have to be members of the two highest vote-receiving political parties at the last election of Secretary of State. (Sec. 1)	No two are to be residents of the same county at the time of appointment. Members of the Board do not have to be members of the two highest vote-receiving political parties at the last election of Secretary of State. (Sec. 1)	

Issue	Under Current Structure	Under S.B. 61	Under S.B. 61 As Amended by Senate Agriculture Committee	Under H.B. 2384	Under H.B. 2384 As Amended by House Agriculture Committee	Under H.B. 2384 As Amended by House Committee of the Whole	
Disposition of Classified and Unclassified Positions	Not applicable. Currently, the Acting Secretary and the agency's attorneys are in the unclassified service. The Assistant Secretary is in the classified service, as well as all other personnel.	Generally, all personnel transfer to the new Department of Agriculture. Any abolition of personnel in the classified service is to be in accord with the Civil Service Law. (Sec. 5) The new Secretary may appoint assistant secretaries who would be in the unclassified service. (Sec. 2) Each Division would be headed by an Assistant Secretary. (Sec. 4) Each Division head would appoint all employees, subject to the approval of the Secretary. These employees would be in the classified service. (Sec. 4)	Generally, all personnel transfer to the new Department of Agriculture. Any abolition of personnel in the classified service is to be in accord with the Civil Service Law. (Sec. 5) The new Secretary may appoint assistant secretaries who would be in the unclassified service. (Sec. 2) Each Division would be headed by an individual in the classified service. (Sec. 4) Each Division head would appoint all employees, subject to the approval of the Secretary. These employees would be in the classified service. (Sec. 4)	Generally, all personnel transfer to the new State Board of Agriculture. Any abolition of personnel in the classified service is to be in accord with the Civil Service Law. (Sec. 11) The new Secretary may appoint an assistant or assistants who would be in the unclassified service. (Sec. 9)	Generally, all personnel transfer to the new State Board of Agriculture. Any abolition of personnel in the classified service is to be in accord with the Civil Service Law. (Sec. 11) The new Secretary may appoint an assistant or assistants who would be in the unclassified service. (Sec. 9)	Generally, all personnel transfer to the new State Board of Agriculture. Any abolition of personnel in the classified service is to be in accord with the Civil Service Law. (Sec. 11) The new Secretary may appoint an assistant or assistants who would be in the unclassified service. (Sec. 9)	
Rules and Regulations	Authority given to Secretary, Board, and to Chief Engineer.	All rules and regulations of Secretary and Board transfer to Secretary of Agriculture created by the bill. (Sec. 3) The rules and regulations of the Chief Engineer are not transferred.	All rules and regulations of Secretary and Board transfer to Secretary of Agriculture created by the bill. The bill specifies that rules and regulations of the Chief Engineer continue to be with the Chief Engineer. (Sec. 3(g))	All rules and regulations of Secretary and Board transfer to State Board created by the bill. (Sec. 10) The rules and regulations of the Chief Engineer are not transferred.	All rules and regulations of Secretary and Board transfer to State Board created by the bill. (Sec. 10). The bill specifies that rules and regulations of the Chief Engineer continue to be with the Chief Engineer. (Sec. 10(g))	All rules and regulations of Secretary and Board transfer to State Board created by the bill. (Sec. 10). The bill specifies that rules and regulations of the Chief Engineer continue to be with the Chief Engineer. (Sec. 10(g))	
Secretary -- Member of Cabinet	No.	Yes. As an executive agency the Secretary would be a member of the cabinet.	Yes. As an executive agency the Secretary would be a member of the cabinet.	No.	No.	Yes. The Secretary is to be a member of the Governor's Cabinet. (Sec. 8)	
One Person-One Vote Challenge*	Challenged in Federal Court, Under Appeal to 10th Circuit Court.	Most likely would meet the one-person, one-vote challenge.	Most likely would meet the one-person, one-vote challenge.	Most likely would meet the one-person, one-vote challenge.	Most likely would meet the one-person, one-vote challenge.	Most likely would meet the one-person, one-vote challenge.	
State Constitution -- Executive Power Question (Art. 1, Sec. 3)*	See above.	Executive has direct control of agency through appointment of Secretary.	Executive has direct control of agency through appointment of Secretary.	Executive has direct control of agency through appointment of the Board.	Executive has direct control of agency through appointment of the Board.	Executive has direct control of agency through appointment of the Board.	

Issue	Under Current Structure	Under S.B. 61	Under S.B. 61 As Amended by Senate Agriculture Committee	Under H.B. 2384	Under H.B. 2384 As Amended by House Agriculture Committee	Under H.B. 2384 As Amended by House Committee of the Whole	
Delegates to the Annual Meeting	Act as an electing body for the Board of Agriculture.	The provisions dealing with delegates to an annual meeting are repealed.	The provisions dealing with delegates to an annual meeting are repealed.	The provisions of current law dealing with delegates to an annual meeting are repealed.	The provisions of current law dealing with delegates to an annual meeting are repealed.	The provisions of current law dealing with delegates to an annual meeting are repealed. The Secretary will organize an annual public informational meeting which is to occur in each Congressional district on a rotating basis. (Sec. 8)	
Effective Date	Not applicable.	Upon publication in the Statute Book.	Upon publication in the Statute Book.	Upon publication in the Statute Book.	Upon publication in the Statute Book.	Upon publication in the Statute Book.	
Status of Bill	Not applicable.	Referred to Senate Agriculture Committee.	Adopted by Senate Agriculture Committee.	Referred to House Agriculture Committee.	Adopted by House Agriculture Committee.	Adopted by House Committee of the Whole.	
Other Notable Aspects							

* The notations in the table under these issues will have a final determination made in a court of law. The notations are based upon the outcomes of past court cases. The Kansas Legislative Research Department cannot issue legal opinions.

STATE OF KANSAS

KANSAS ANIMAL HEALTH DEPARTMENT

George Teagarden, Livestock Commissioner
712 South Kansas Avenue Suite 4-B Topeka Kansas 66603-3808
Phone 913/296-2326 FAX 913/296-1765

TO: Senator Corbin, Chair
Senate Agriculture Committee

FROM: Debra Duncan, Director
Animal Facilities Inspection Program

RE: S.B. 338

DATE: March 13, 1995

Senator Corbin and members of the Senate Agriculture Committee, I am Debra Duncan, Director of the Animal Facilities Inspection program of the Kansas Animal Health Department. As you know, one of the main duties of our agency is the inspection of kennels licensed under the Kansas Animal Dealer Act.

K.S.A. 47-1709(c) mandates that the Commissioner or the Commissioner's representative shall make inspections of the premises required to be licensed if there are reasonable grounds to believe that the person is violating the act. Our agency has construed this provision of the act to mandate inspections of all complaints and to require a personal inspection of all unlicensed facilities which are located by the field inspectors.

Much of the original contact to unlicensed facilities can be made by phone or letter without a personal inspection. Furthermore, although some complaints are valid, a fair number of frivolous, unfounded complaints are often spotted by the agency before an inspection is made. Despite misgivings or actual knowledge that a complaint is groundless, we assign an inspector to inspect the facility based on the complaint. Often the complaints follow closely behind a routine inspection or the complaint is made against kennels that do an outstanding job of complying with our statutes and regulations. Our inspectors know that complaints against such kennels are not valid.

*Senate Ag. Co.
3-13-95
Attachment 2*

During our budget hearings with the Senate Ways and Means Subcommittee, we expressed concern about the cost of inspecting unfounded complaints. The subcommittee agreed with the agency and recommended introduction of this amendment to K.S.A. 47-1709(c). The subcommittee expressed in their report that the agency should be allowed to exercise discretion in responding to complaints and recommended that the statutory language be changed to make the inspection duties in this section permissive rather than mandatory. Thus on page 1, line 40, shall has been struck and may has been inserted.

Thank you for your attention. I will respond to any questions you might have.

legis/sb338